

**Testimony of Congressman Fred Upton on
H.R. 1490, *The Fairness in Veterans Disability Benefits Act***

**House Veterans' Affairs Subcommittee on
Disability Assistance and Memorial Affairs**

April 17, 2007

I thank the chairman and ranking member for convening today's hearing on this very important and pressing issue and for giving Joe and I an opportunity to testify on the need for innovative methods to solve the VA's disability claims backlog and deliver benefits to disabled veterans as quickly and efficiently as possible.

Recent headlines have brought an unprecedented amount of attention to the care given to our brave sons and daughters wounded as a result of actions related to the Global War on Terror. The situation at Walter Reed Army Medical Center has opened the door to scrutiny of many facets of service-member and veteran care in issues ranging from quality of care and accommodations in both DoD and VA medical facilities to the apparent lack of parity between DoD and VA disability ratings, to the unbelievably daunting backlog of pending VA disability claims. It is becoming increasingly evident that major reforms must take place in many areas in order for care to meet the standards that our veterans deserve.

Among the many issues that need to be remedied, the elephant in the room is the enormous backlog of disability claims, which is the subject of today's hearing. I was struck by a recent report compiled by Linda Bilmes, a faculty member at Harvard University's John F. Kennedy School of Government, that detailed an enormous and growing backlog that our troops are enduring when seeking disability benefits. The report paints a bleak picture of the future if the status quo is maintained.

The statistics are startling. As of December 9, 2006, the Veteran Benefits Administration had a backlog of almost 400,000 claims. As a result, the VBA takes an average of 177 days to process an original claim and 657 days to process an appeal. This delay deprives many veterans of Iraq and Afghanistan of much-needed income at a time in their lives when they are not only learning to cope with a disability, but also transitioning into civilian life.

This problem not only needs to be addressed with a deep, systemic look at how claims are processed, it needs to be dealt with as swiftly as possible. The backlog is expected to grow exponentially as waves of troops continue to return from operations in Iraq and Afghanistan. It is difficult to predict the exact demand and strain that the newest veterans will place on the system, but there is one statistic that is particularly alarming. The ratio of soldiers wounded for every soldier killed in OIF and OEF is almost 8 to 1, as compared to 2.8 to 1 in Vietnam and 2.6 to 1 in Korea. The 8 to 1 ratio is according to

DoD statistics, which only take into account service-members wounded in battle. If VA statistics are used, in which a wounded service-member is defined as any soldier who is medically evacuated from theater, than that ratio rises to 16 to 1.

It is easy to recognize the conclusion of the Harvard research: the problem is only going to get worse, the backlog is only going to get larger, and the amount of time it takes for a veteran to receive disability benefits will become increasingly unacceptable.

The cause of the backlog does not lie in apathy or incompetence of VA workers. In fact, I believe that just the opposite is true. Many VA workers are veterans themselves, and I believe all of them to be true patriots who want to help vets in any way they can. I have heard more than one story about claims processors working through the weekend in order to resolve their caseloads. It is obvious that the VA's manpower is stretched to the limit, and I believe it is imperative that congress works to ensure that they have the resources and manpower in place to quickly and accurately process claims.

While adding staff and resources will go a long way to addressing the backlog, I believe that an innovative approach is needed to truly address the problems inherent in the current system.

Congressman Donnelly and I have introduced a bill, H.R. 1490, that approaches the problem from a unique angle. Based on an idea put forth in the Harvard report, HR 1490 will provide the veteran with the benefit of the doubt by directing the VA to approve new claims up front through an expedited process, and allowing the VA to reach back and audit a percentage of them to detect and deter fraud. According to VA statistics, close to 90% of these claims are approved under the current system.

Veterans would simply need to prove their service and provide minimal supporting evidence for their claim. They would provide that information to a VA claims worker to identify the proper disability and appropriate benefit. Unless the claims worker determines that the original information is not sufficient, the veteran is allotted the median level of benefit for that type of disability. Their claim will then be reviewed by the VA, and when it is resolved, the veteran will receive a permanent rating and the benefit amount appropriate to it. The initial "median-level" benefit simply gives disabled veterans some money right out of the gate so they can better deal with their transition.

This bill essentially shifts the burden of proof from the veteran to the government. This method is not unlike the one used by the IRS and other government agencies with large caseloads.

Mr. Chairman, we must think outside the box when confronting a problem of this magnitude. We must do what is necessary on behalf of those who have sacrificed for our country.

I believe that HR 1490 is a good starting point in the legislative conversation revolving around the benefits backlog. I am aware that this proposal is not perfect, but I look

forward to working with Joe and my other friends and colleagues on the Veterans Affairs committee in moving this idea forward and finding a solution to ensure that our courageous servicemen and women seeking disability benefits receive prompt attention.

Thank you once again for allowing me the opportunity to testify on this very important issue. I am pleased to answer any questions you might have.